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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/501,555 | 07/16/2004 | Bo Johan Niklas Niklasson | 10400-000111/US | 5132 |

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| EXAMINER | |
|---|---|
| ROY, ANURADHA | |
| ART UNIT | PAPER NUMBER |
| 3736 | |

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/501,555 | NIKLASSON, BO JOHAN NIKLAS | |
| | Examiner | Art Unit | |
| | Anuradha Roy | 3736 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *08 September 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

This action is in response to applicant's amendment submitted on September 8, 2006. Examiner acknowledges the amended claims in response to the first office action.

### Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3, 5, 8, & 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over van der Bend te Brielle (Dutch Publication No. NL8701577) in view of Anhäuser et al. (US Patent No. 6,142,954).

Regarding claim 1, van der Bend te Brielle discloses an epicutaneous test plaster, comprising:

a flexible carrier (3, 11, 12) including a medical adhesive layer (2) for removable adhesion of the epicutaneous test plaster to a skin portion of a person to be allergy-tested;

a number of test chambers (6), distributed over the adhesive layer of the carrier;

and a removable cover layer (9, 16, 17), extending over all the test chambers and the carrier,

wherein the test chambers are formed as separate chambers, each including,

a filter element (7 & 8) secured to the carrier (Figure 4) and including a filter layer (8), laminated with a moisture barrier layer (7),

a frame-shaped foam plastic layer (4) having on its outwardly directed side a layer of medical adhesive (10), and

wherein the cover layer is removably secured by way of the adhesive layer of the carrier.

Van der Bend te Brielle discloses a cut out in the frame-shaped foam (4), wherein the filter (7) is placed, however, van der Bend te Brielle does not disclose a frame-shaped foam plastic layer secured on top and embracing the filter element. Anhäuser et al., however, teaches of an epicutaneous test plaster having a layer being secured on top and embracing the filter element (9 & 10, respectively). It would have been obvious to one having ordinary skill in the art at the time the invention in view of Anhäuser et al. to have a structure wherein a layer secured on top of and embracing the filter with van der Bend te Brielle in order to prevent leakage of the fluid (Figure 2).

In regards to claim 3, van der Bend te Brielle discloses an epicutaneous test plaster, wherein the cover layer consists of a plastic layer laminate with a polyethylene layer (9), which in use of the cover layer faces the test chambers to be removably held by the adhesive layer of the carrier (Figure 4).

With regard to claim 5, van der Bend te Brielle discloses an epicutaneous test plaster, wherein the cover layer (9, 16, & 17) consists of a paper liner with a silicone layer (16 & 17), which in use of the cover layer faces the test chambers to be removably

held by the adhesive layer of the carrier and the adhesive layer of the frame-shaped foam plastic layer (Figure 3).

Regarding claim 8, van der Bend te Brielle discloses an epicutaneous test plaster, wherein the frame-shaped foam plastic layer consists of a polyethylene foam (4).

Regarding claim 11, van der Bend te Brielle discloses an epicutaneous test plaster, wherein the filter element (7 & 8) is secured to the carrier (3) by way of an adhesive layer (2), whose one side is fixed to the carrier (3) and whose other side is fixed to the filter element (7 & 8 via 4).

Regarding claim 15, van der Bend te Brielle in view of Anhäuser et al. discloses an epicutaneous test plaster, wherein a layer (9, Anhäuser et al.) is secured by means of an adhesive layer (7, Anhäuser et al.), whose one side is fixed to the layer and whose other side is fixed to the filter element (Figure 2, Anhäuser et al.).

Regarding claim 16, van der Bend te Brielle discloses an epicutaneous test plaster, wherein the frame-shaped foam plastic layer is formed as a double-adhesive tape (Figure 3: 2,4,10).

In regards to claim 18, van der Bend te Brielle discloses an epicutaneous a test plaster, comprising:

a carrier (3, 11, 12) including an adhesive layer (2); and

a plurality of test chambers (6) distributed over the adhesive layer of the carrier, each test chamber including,

a filter element (8) mounted on the carrier, and

a foam plastic layer (4);

wherein the foam plastic layers of the test chambers are spaced apart from each other (Figure 3).

However, van der Bend te Brielle does not disclose a foam plastic layer (4) mounted on the filter element (8). Anhäuser et al., however, teaches of an epicutaneous test chamber having a layer mounted on the filter element (9 & 10, respectively). It would have been obvious to one having ordinary skill in the art at the time the invention in view of Anhäuser et al. to have a structure wherein a layer is mounted on the filter with van der Bend te Brielle in order to prevent leakage of the fluid (Figure 2).

In regards to claim 19, van der Bend te Brielle in view of Anhäuser et al. discloses an epicutaneous test plaster, wherein a surface of each foam plastic layer (4, van der Bend te Brielle) that faces away from the carrier (Figure 3) supports an adhesive layer (2, 10, 19) that extends all the way around the perimeter of a corresponding test cell.

In regards to claim 20, van der Bend te Brielle discloses a An epicutaneous test plaster, comprising:

carrier (3,11,12) including an adhesive layer (2);

a plurality of test chambers (6) distributed over the adhesive layer of the carrier, each test chamber including (Figure 3),

a filter element (8) mounted on the carrier (Figure 4), and

a foam plastic layer (4); and

an adhesive layer (19) provided on the foam plastic layer (4), the adhesive layer (19) including an opening (5) through which an interior of the test chamber is exposed.

However, van der Bend te Brielle does not disclose a foam plastic layer (4) mounted on the filter element (8). Anhäuser et al., however, teaches of an epicutaneous test chamber having a layer mounted on the filter element (9 & 10, respectively). It would have been obvious to one having ordinary skill in the art at the time the invention in view of Anhäuser et al. to have a structure wherein a layer is mounted on the filter with van der Bend te Brielle in order to prevent leakage of the fluid (Figure 2).

**Additional Claim Rejections - 35 USC § 103**

Claims 2, 4, 17, & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over van der Bend te Brielle in view of Anhäuser et al. and further in view of Saunders, Jr. (US Patent No. 3,894,531)

Regarding claims 2, 4, 17, & 21, van der Bend te Brielle in view of Anhäuser et al. discloses an epicutaneous test plaster with all of the aforementioned elements, as well as a cover layer (9). However van der Bend te Brielle in view of Anhäuser et al. does not discloses a epicutaneous test plaster, wherein the cover layer is a layer with blister

bubbles which have a groove which is so strongly bent down towards the carrier. However Saunders, Jr. discloses a epicutaneous test plaster, wherein the cover layer (16) is a plastic layer (Column 2, lines 48-52) with blister bubbles (24) which have the same distribution and location as the various test chambers and are larger than these in order to enclose them (Figure 1) when the cover layer is removably held by the adhesive (26) layer of the flexible carrier (12 & 14) and wherein blister bubbles of the cover layer have a groove which is so strongly bent down towards the carrier (Figure 4) that in the mounted position the groove is in contact with the corresponding frame-shaped foam plastic layer's layer of medical adhesive outside the corresponding test chamber to seal the same (Figure 4). It would have been obvious to one having ordinary skill in the art at the time the invention in view of Saunders, Jr. to incorporate a plastic cover layer with blister bubbles with van der Bend te Brielle in view of Anhäuser et al. to provide a more secured and individualized cover for each of the test chambers in order to provide a more effective means to prevent contamination.

**Additional Claim Rejections - 35 USC § 103**

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over van der Bend te Brielle in view of Anhäuser et al. and further in view of Hoffman (US Reissued Patent No. RE 37,934).

In regards to claim 6, van der Bend te Brielle in view of Anhäuser et al. discloses an epicutaneous test plaster with all of the aforementioned elements. However, van der Bend te Brielle in view of Anhäuser et al. does not discloses an epicutaneous test plaster, wherein the carrier consists of a flexible porous surgical tape with a

methacrylate-based adhesive layer. Hoffman, however, teaches of a carrier (16) consisting of a flexible porous (Column 7, lines 13-15) surgical tape with a methacrylate-based adhesive layer (Column 7, lines 18-21). It would have been obvious to one having ordinary skill in the art at the time the invention in view of Hoffman to integrate in a flexible porous surgical tape with a methacrylate-based adhesive layer into a carrier with van der Bend te Brielle in view of Anhäuser et al. in order to provide a flexible, permeable, and pressure sensitive adhesive layer to the carrier.

**Additional Claim Rejections - 35 USC § 103**

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over van der Bend te Brielle in view of Anhäuser et al. and further in view of Schoendorfer (US Patent No. 5,944,662).

Regarding claim 7, van der Bend te Brielle in view of Anhäuser et al. discloses an epicutaneous test plaster with all of the aforementioned elements. However, van der Bend te Brielle in view of Anhäuser et al. does not disclose a filter paper that is cellulose-based. Schoendorfer, however, teaches of a filter paper that is cellulose-based (Column 7, lines 24-33). It would have been obvious to one having ordinary skill in the art at the time the invention in view of Schoendorfer to incorporate a filter paper that is cellulose-based with van der Bend te Brielle in view of Anhäuser et al. in order to allow adequate fluid permeability.

**Additional Claim Rejections - 35 USC § 103**

Claims 9, 10, 15, & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable

over van der Bend te Brielle in view of Anhäuser et al. and further in view of Zeytinoghu et al. (US Patent No. 5,874,226).

Regarding claims 9 & 10, van der Bend te Brielle in view of Anhäuser et al. discloses an epicutaneous test plaster, wherein the filter element is secured to the carrier (via foam plastic layer, Figure 4). However, van der Bend te Brielle in view of Anhäuser et al. does not discloses the filter element secured to the carrier by way of a bottom layer of a flexible double-adhesive tape. Zeytinoghu et al., however, teaches the use of flexible double-adhesive tape (3, Column 3, lines 50-55). It would have been obvious to one having ordinary skill in the art at the time the invention in view of Zeytinoghu et al. to secure the carrier to the filter element via a flexible double-adhesive tape with van der Bend te Brielle in view of Anhäuser et al. in order to provide the filter with an extra measure of security to the carrier via the foam plastic layer.

Regarding claim 10, Zeytinoghu et al. discloses an double-adhesive tape which forms the bottom layer has adhesive layers of a synthetic rubber-based adhesive. Examiner notes a synthetic rubber-based adhesive is an inherent property of an adhesive tape.

**Allowable Subject Matter**

Claims 12, 13, & 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

## Response to Arguments

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

## Conclusion

**THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anuradha Roy whose telephone number is 571-272-6169 and whose email address is anuradha.roy@uspto.gov. The examiner can normally be reached between 9:00am and 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

~AR

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